

House Daily Reader

Thursday, February 09, 2006

Bills Included				
HB 1007	HB 1079	HB 1129	HB 1160	HB 1194
HB 1197	HB 1210	HB 1232	HB 1233	HB 1234
SB 78	SB 107	SB 118	SB 185	

State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

390M0109

SENATE ENGROSSED NO. **HB 1007** - 02/07/2006

Introduced by: The Committee on Agriculture and Natural Resources at the request of the
State Brand Board

1 FOR AN ACT ENTITLED, An Act to revise certain provisions related to the composition of
2 livestock brands and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 40-19-7 be amended to read as follows:

5 40-19-7. The board shall reject any brands formed from any letter, number, or symbol which
6 is a duplicate of, or in conflict with, any brand previously registered for that location on an
7 animal. Any brand approved for registration shall be composed from the combination of no less
8 than two ~~or~~ and no more than three letters, numbers, or symbols, except for sheep. Only the
9 following ~~shall~~ may be accepted for registration:

- 10 (1) Letters A to P and R to Z, in the plain gothic style of print;
- 11 (2) Arabic numerals from two to nine, inclusive;
- 12 (3) Symbols, including diamond, half diamond, arrow, mill iron, heart, box, half box,
13 quarter circle, bar, cross, triangle, or slash;
- 14 (4) Character brands that were cancelled by the board for nonrenewal after January 1,
15 2005, but only if registered by the person who owned the brand at the time it was



1 cancelled, or if the person is deceased, by the spouse or by the lineal descendants of
2 the person.

3 ~~All brands that are~~ Any brand that is similar to any previously registered brand or that ~~the~~
4 ~~board determines may~~ in the board's determination could be changed to resemble a previously
5 registered brand may be rejected. Location of a brand on an animal ~~shall be~~ is construed as part
6 of the brand. A variation in the size of a letter, number, or figure does not constitute a new brand
7 and shall be rejected.

8 Section 2. Whereas, this Act is necessary for the immediate preservation of the public peace,
9 health, or safety, an emergency is hereby declared to exist, and this Act shall be in full force and
10 effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

398M0371

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1079 - 02/07/2006

Introduced by: Representatives Dykstra, Cutler, Haley, Heineman, Hunhoff, Krebs, McLaughlin, and Roberts and Senators Olson (Ed), Kooistra, Moore, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to define an enrolled student.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That chapter 13-28 be amended by adding thereto a NEW SECTION to read as
4 follows:

5 As used in this title, a student is enrolled if:

6 (1) The student is less than twenty-one years of age on the first day of July or the student
7 is twenty-one years of age or older and is admitted to the school district pursuant to
8 § 13-28-8; and

9 (2) The student has not completed an approved program or graduated from high school;
10 and

11 (3) The student's parent or guardian resides within the school district, or in the case of
12 an emancipated minor or an adult admitted to the district pursuant to § 13-28-8, the
13 student resides within the district or the student has been properly assigned to the
14 district or has been approved to attend school in the district under the terms of the



- 1 enrollment options program established in § 13-28-40; and
- 2 (4) The student is not simultaneously enrolled in any other school district and has not
- 3 been excused from school attendance under the terms of § 13-27-1.1 or § 13-27-2.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

159M0002

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1129 - 02/07/2006

Introduced by: Representatives Peters, Dykstra, Hackl, Haverly, Heineman, Hunhoff, O'Brien, Putnam, Rausch, Rave, Rhoden, Rounds, Schafer, Tidemann, Vehle, Wick, and Willadsen and Senators McCracken, Bogue, Dempster, Duniphan, Earley, Gant, Gray, Hansen (Tom), Kelly, Kooistra, Olson (Ed), and Smidt

1 FOR AN ACT ENTITLED, An Act to exempt certain facilities used for business incubators
2 from property taxation.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any facility operated as a multi-tenant business incubator and owned by an entity recognized
7 as an exempt nonprofit corporation pursuant to section 501(c)(3), 501(c)(4), or 501(c)(6) of the
8 Internal Revenue Code as of January 1, 2006, is exempt from property taxation. A business
9 incubator is any facility that supports the development and operation of a number of small start-
10 up businesses. Tenants of the facility may share a number of support services and the tenants
11 may receive technical assistance, business planning, legal, financial, and marketing advice. If
12 any portion of the facility is occupied by an incubated business for more than five years, that
13 portion of the facility shall be taxed as other property of the same class is taxed.

14 Section 2. That § 10-4-15 be amended to read as follows:



1 10-4-15. Any person, organization, corporation, or association claiming a property tax
2 exemption status for any property under section 1 of this Act or §§ 10-4-9 to 10-4-14, inclusive,
3 or as may otherwise be provided by law, shall apply for such exemption to the county director
4 of equalization on forms prescribed by the secretary of revenue and regulation prior to
5 November first of the tax year.

6 Section 3. That § 13-13-20.4 be amended to read as follows:

7 13-13-20.4. The actual assessed valuation of any property given a reduced valuation
8 pursuant to §§ 10-6-35.1, 10-6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25,
9 10-6-54, 10-6-55, 10-6-66, and 10-6-67 shall be used when calculating state aid to education.
10 For any property given a reduced valuation after November 1995, pursuant to §§ 10-6-35.1, 10-
11 6-35.2, 10-6-35.4, 10-6-35.21, 10-6-35.22, 10-6-35.24, 10-6-35.25, 10-6-54, 10-6-55, 10-6-66,
12 and 10-6-67 that has not previously received a reduced valuation pursuant to these statutes, the
13 portion of actual assessed valuation of the property used when calculating state aid to education
14 shall be twenty percent in the first year, forty percent in the second year, sixty percent in the
15 third year, eighty percent in the fourth year, and one hundred percent each year thereafter. In
16 addition, the actual assessed valuation of any property given exempt status pursuant to section
17 1 of this Act shall be used when calculating state aid to education.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

497M0157

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1160** - 01/31/2006

Introduced by: Representatives Brunner, Elliott, Hackl, Hennies, Hills, Lange, McCoy, Nelson, Novstrup, Rave, Roberts, Schafer, Street, Tornow, and Weems and Senators Kooistra and Nesselhuf

1 FOR AN ACT ENTITLED, An Act to provide additional state funding to school districts that
2 offer certain services and opportunities to students receiving alternative instruction.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-13 be amended by adding thereto a NEW SUBDIVISION to read as
5 follows:

6 In addition to the funds from the foundation program fund distributed to schools according
7 to the provisions of §§ 13-13-10.1 to 13-13-41, inclusive, a school district is entitled to
8 additional funds in an amount equal to twenty-five percent of the per student allocation as
9 defined in subdivision 13-13-10.1(4) for every student who resides in the district and is
10 receiving alternative instruction as set forth in § 13-27-3. However, a school district may only
11 receive the funding set forth in this section if the district provides the student with the
12 opportunity to participate in interscholastic activities pursuant to § 13-36-7 and also makes
13 available to the student other services provided by the school.

14 In order to receive this funding, a school district shall apply on forms provided by the



1 Department of Education. The Department of Education may promulgate rules pursuant to
2 chapter 1-26 to establish application procedures, timelines, and procedures for determining
3 funding eligibility.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

673M0607

HOUSE EDUCATION COMMITTEE ENGROSSED NO.

HB 1194 - 02/03/2006

Introduced by: Representatives Weems, Brunner, Davis, Deadrick, Dykstra, Faehn, Frost, Fryslie, Gassman, Gillespie, Glenski, Hargens, Heineman, Howie, Hunt, Jensen, Jerke, Klaudt, Kraus, Krebs, Lange, McCoy, Miles, Novstrup, Olson (Ryan), Pederson (Gordon), Rausch, Rave, Rhoden, Rounds, Schafer, Sebert, Tornow, Van Etten, Wick, and Willadsen and Senators Greenfield, Abdallah, Apa, Bartling, Bogue, Broderick, Duenwald, Earley, Gray, Hansen (Tom), Hanson (Gary), Kelly, Kloucek, Koskan, Lintz, McNenny, Moore, Napoli, and Schoenbeck

1 FOR AN ACT ENTITLED, An Act to prohibit the distribution of contraceptives to public
2 school students, to prohibit public school employees from referring public school students
3 to abortion or family planning services, and to provide penalties therefor.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That chapter 13-33A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 No person may dispense, provide, or otherwise distribute in a public school or on public
8 school property, any contraceptive or abortifacient drug, contraceptive device, or other similar
9 drug or device.

10 A violation of this section is a Class 1 misdemeanor.

11 Section 2. That chapter 13-33A be amended by adding thereto a NEW SECTION to read
12 as follows:



1 No employee of a school district, while performing employment duties, may send, direct,
2 or accompany any student of that school district for abortion or family planning services, unless
3 the employee is the parent or legal guardian of the student.

4 A violation of this Act is a Class 2 misdemeanor.

5 Section 3. The provisions of this Act do not apply to any school governed by the provisions
6 of chapter 13-39.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

347M0300

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **HB 1197** - 02/07/2006

Introduced by: Representatives Kroger, Bradford, Dennert, Elliott, Frysliie, Gassman, Gillespie, Glover, Haley, Halverson, Hargens, Hennies, Howie, Lange, Miles, O'Brien, Roberts, Sigdestad, Street, and Thompson and Senators Koetzle, Bartling, Gray, Hanson (Gary), Hundstad, Kloucek, Kooistra, Moore, Nesselhuf, Sutton (Dan), and Two Bulls

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the reduction of
2 unemployment benefits.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 61-6-20 be amended to read as follows:

5 61-6-20. An individual is not entitled to any benefits for a week for which ~~he~~ the individual
6 is receiving, has received, or will receive remuneration in the form of:

7 (1) Termination, vacation, holiday, severance, or dismissal payments or wages in lieu of
8 notice whether legally required or not. However, in the case of lump sum
9 termination, vacation, holiday, severance, or dismissal payments, the lump sum
10 payment shall be allocated over a period of weeks equal to the lump sum divided by
11 the employee's regular pay while employed. However, the payment shall be applied
12 for a period of weeks immediately following the last day of work. Payments made to
13 an individual based entirely on ~~his~~ the individual's contributions to a fund from which



1 the payments are made are not vacation pay;

2 (2) Compensation for temporary partial disability under the workers' compensation law
3 of any state or under a similar law of the United States; or

4 (3) The prorated weekly amount of any pension, annuity or retirement payment including
5 disability pension payments, based on the previous work of the individual. This
6 subdivision applies only to ~~primary social security retirement benefits and to~~
7 payments made under a plan contributed to by a base period employer. This does not
8 apply to payments made under Title II of the Social Security Act or the Railroad
9 Retirement Act of 1974, to military service-connected disability payments or to that
10 part, if any, of a pension, annuity or retirement payment that is attributable to
11 contributions of the individual. However, this subdivision shall apply to payments
12 made under Title II of the Social Security Act or the Railroad Retirement Act of 1974
13 until the balance of the unemployment trust fund reaches twenty million dollars.

14 If ~~such~~ the remuneration is less than the benefits which would otherwise be due under this
15 chapter, ~~he~~ the individual shall receive for ~~such~~ the week, if otherwise eligible, benefits reduced
16 by the amount of ~~such~~ the remuneration.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

418M0394

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB 1210** - 02/03/2006

Introduced by: Representative O'Brien and Senators Knudson and Bogue

1 FOR AN ACT ENTITLED, An Act to adopt the revised Uniform Arbitration Act and to repeal
2 certain provisions regarding arbitration.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. In this Act:

- 5 (1) "Arbitration organization" means an association, agency, board, commission, or other
6 entity that is neutral and initiates, sponsors, or administers an arbitration proceeding
7 or is involved in the appointment of an arbitrator;
- 8 (2) "Arbitrator" means an individual appointed to render an award, alone or with others,
9 in a controversy that is subject to an agreement to arbitrate;
- 10 (3) "Court" means a court of competent jurisdiction in this state;
- 11 (4) "Knowledge" means actual knowledge;
- 12 (5) "Person" means an individual, corporation, business trust, estate, trust, partnership,
13 limited liability company, association, joint venture, government; governmental
14 subdivision, agency, or instrumentality; public corporation; or any other legal or
15 commercial entity



1 (6) "Record" means information that is inscribed on a tangible medium or that is stored
2 in an electronic or other medium and is retrievable in perceivable form.

3 Section 2. (a) Except as otherwise provided in this Act, a person gives notice to another
4 person by taking action that is reasonably necessary to inform the other person in ordinary
5 course, whether or not the other person acquires knowledge of the notice.

6 (b) A person has notice if the person has knowledge of the notice or has received notice.

7 (c) A person receives notice when it comes to the person's attention or the notice is delivered
8 at the person's place of residence or place of business, or at another location held out by the
9 person as a place of delivery of such communications.

10 Section 3. (a) This Act governs an agreement to arbitrate made after June 30, 2006.

11 (b) This Act governs an agreement to arbitrate made before July 1, 2006, if all the parties
12 to the agreement or to the arbitration proceeding so agree in a record.

13 (c) After June 30, 2007, this Act governs an agreement to arbitrate whenever made.

14 Section 4. (a) Except as otherwise provided in subsections (b) and (c), a party to an
15 agreement to arbitrate or to an arbitration proceeding may waive or, the parties may vary the
16 effect of, the requirements of this Act to the extent permitted by law.

17 (b) Before a controversy arises that is subject to an agreement to arbitrate, a party to the
18 agreement may not:

19 (1) Waive or agree to vary the effect of the requirements of section 5(a), 6(a), 8, 17(a),
20 17(b), 26, or 28 of this Act;

21 (2) Agree to unreasonably restrict the right under section 9 of this Act to notice of the
22 initiation of an arbitration proceeding;

23 (3) Agree to unreasonably restrict the right under section 12 of this Act to disclosure of
24 any facts by a neutral arbitrator; or

1 (4) Waive the right under section 16 of this Act of a party to an agreement to arbitrate
2 to be represented by a lawyer at any proceeding or hearing under this Act, but an
3 employer and a labor organization may waive the right to representation by a lawyer
4 in a labor arbitration.

5 (c) A party to an agreement to arbitrate or arbitration proceeding may not waive, or the
6 parties may not vary the effect of, the requirements of this section or sections 3(a) or (c), 7, 14,
7 18, 20(d) or (e), 22, 23, 24, 25(a) or (b), 29, 30, 31, or 32 of this Act.

8 Section 5. (a) Except as otherwise provided in section 28 of this Act, an application for
9 judicial relief under this Act must be made by motion to the court and heard in the manner
10 provided by law or rule of court for making and hearing motions.

11 (b) Unless a civil action involving the agreement to arbitrate is pending, notice of an initial
12 motion to the court under this Act must be served in the manner provided by law for the service
13 of a summons in a civil action. Otherwise, notice of the motion must be given in the manner
14 provided by law or rule of court for serving motions in pending cases.

15 Section 6. (a) An agreement contained in a record to submit to arbitration any existing or
16 subsequent controversy arising between the parties to the agreement is valid, enforceable, and
17 irrevocable except upon a ground that exists at law or in equity for the revocation of a contract.

18 (b) The court shall decide whether an agreement to arbitrate exists or a controversy is subject
19 to an agreement to arbitrate.

20 (c) An arbitrator shall decide whether a condition precedent to arbitrability has been fulfilled
21 and whether a contract containing a valid agreement to arbitrate is enforceable.

22 (d) If a party to a judicial proceeding challenges the existence of, or claims that a
23 controversy is not subject to, an agreement to arbitrate, the arbitration proceeding may continue
24 pending final resolution of the issue by the court, unless the court otherwise orders.

1 Section 7. (a) On motion of a person showing an agreement to arbitrate and alleging another
2 person's refusal to arbitrate pursuant to the agreement:

3 (1) If the refusing party does not appear or does not oppose the motion, the court shall
4 order the parties to arbitrate; and

5 (2) If the refusing party opposes the [motion], the court shall proceed summarily to
6 decide the issue and order the parties to arbitrate unless it finds that there is no
7 enforceable agreement to arbitrate.

8 (b) On motion of a person alleging that an arbitration proceeding has been initiated or
9 threatened but that there is no agreement to arbitrate, the court shall proceed summarily to
10 decide the issue. If the court finds that there is an enforceable agreement to arbitrate, it shall
11 order the parties to arbitrate.

12 (c) If the court finds that there is no enforceable agreement, it may not pursuant to
13 subsection (a) or (b) order the parties to arbitrate.

14 (d) The court may not refuse to order arbitration because the claim subject to arbitration
15 lacks merit or grounds for the claim have not been established.

16 (e) If a proceeding involving a claim referable to arbitration under an alleged agreement to
17 arbitrate is pending in court, a motion under this section must be made in that court. Otherwise
18 a motion under this section may be made in any court as provided in section 27 of this Act.

19 (f) If a party makes a motion to the court to order arbitration, the court on just terms shall
20 stay any judicial proceeding that involves a claim alleged to be subject to the arbitration until
21 the court renders a final decision under this section.

22 (g) If the court orders arbitration, the court on just terms shall stay any judicial proceeding
23 that involves a claim subject to the arbitration. If a claim subject to the arbitration is severable,
24 the court may limit the stay to that claim.

1 Section 8. (a) Before an arbitrator is appointed and is authorized and able to act, the court,
2 upon motion of a party to an arbitration proceeding and for good cause shown, may enter an
3 order for provisional remedies to protect the effectiveness of the arbitration proceeding to the
4 same extent and under the same conditions as if the controversy were the subject of a civil
5 action.

6 (b) After an arbitrator is appointed and is authorized and able to act:

7 (1) The arbitrator may issue such orders for provisional remedies, including interim
8 awards, as the arbitrator finds necessary to protect the effectiveness of the arbitration
9 proceeding and to promote the fair and expeditious resolution of the controversy, to
10 the same extent and under the same conditions as if the controversy were the subject
11 of a civil action; and

12 (2) A party to an arbitration proceeding may move the court for a provisional remedy
13 only if the matter is urgent and the arbitrator is not able to act timely or the arbitrator
14 cannot provide an adequate remedy.

15 (c) A party does not waive a right of arbitration by making a motion under subsection (a)
16 or (b).

17 Section 9. (a) A person initiates an arbitration proceeding by giving notice in a record to the
18 other parties to the agreement to arbitrate in the agreed manner between the parties or, in the
19 absence of agreement, by certified or registered mail, return receipt requested and obtained, or
20 by service as authorized for the commencement of a civil action. The notice must describe the
21 nature of the controversy and the remedy sought.

22 (b) Unless a person objects for lack or insufficiency of notice under section 15(c) of this Act
23 not later than the beginning of the arbitration hearing, the person by appearing at the hearing
24 waives any objection to lack of or insufficiency of notice.

1 Section 10. (a) Except as otherwise provided in subsection (c), upon motion of a party to an
2 agreement to arbitrate or to an arbitration proceeding, the court may order consolidation of
3 separate arbitration proceedings as to all or some of the claims if:

4 (1) There are separate agreements to arbitrate or separate arbitration proceedings
5 between the same persons or one of them is a party to a separate agreement to
6 arbitrate or a separate arbitration proceeding with a third person;

7 (2) The claims subject to the agreements to arbitrate arise in substantial part from the
8 same transaction or series of related transactions;

9 (3) The existence of a common issue of law or fact creates the possibility of conflicting
10 decisions in the separate arbitration proceedings; and

11 (4) Prejudice resulting from a failure to consolidate is not outweighed by the risk of
12 undue delay or prejudice to the rights of or hardship to parties opposing
13 consolidation.

14 (b) The court may order consolidation of separate arbitration proceedings as to some claims
15 and allow other claims to be resolved in separate arbitration proceedings.

16 (c) The court may not order consolidation of the claims of a party to an agreement to
17 arbitrate if the agreement prohibits consolidation.

18 Section 11. (a) If the parties to an agreement to arbitrate agree on a method for appointing
19 an arbitrator, that method must be followed, unless the method fails. If the parties have not
20 agreed on a method, the agreed method fails, or an arbitrator appointed fails or is unable to act
21 and a successor has not been appointed, the court, on motion of a party to the arbitration
22 proceeding, shall appoint the arbitrator. An arbitrator so appointed has all the powers of an
23 arbitrator designated in the agreement to arbitrate or appointed pursuant to the agreed method.

24 (b) An individual who has a known, direct, and material interest in the outcome of the

1 arbitration proceeding or a known, existing, and substantial relationship with a party may not
2 serve as an arbitrator required by an agreement to be neutral.

3 Section 12. (a) Before accepting appointment, an individual who is requested to serve as an
4 arbitrator, after making a reasonable inquiry, shall disclose to all parties to the agreement to
5 arbitrate and arbitration proceeding and to any other arbitrators any known facts that a
6 reasonable person would consider likely to affect the impartiality of the arbitrator in the
7 arbitration proceeding, including:

8 (1) A financial or personal interest in the outcome of the arbitration proceeding; and

9 (2) An existing or past relationship with any of the parties to the agreement to arbitrate
10 or the arbitration proceeding, their counsel or representatives, a witness, or another
11 arbitrator.

12 (b) An arbitrator has a continuing obligation to disclose to all parties to the agreement to
13 arbitrate and arbitration proceeding and to any other arbitrators any facts that the arbitrator
14 learns after accepting appointment which a reasonable person would consider likely to affect
15 the impartiality of the arbitrator.

16 (c) If an arbitrator discloses a fact required by subsection (a) or (b) to be disclosed and a
17 party timely objects to the appointment or continued service of the arbitrator based upon the fact
18 disclosed, the objection may be a ground under section 23(a)(2) of this Act for vacating an
19 award made by the arbitrator.

20 (d) If the arbitrator did not disclose a fact as required by subsection (a) or (b), upon timely
21 objection by a party, the court under section 23(a)(2) of this Act may vacate an award.

22 (e) An arbitrator appointed as a neutral arbitrator who does not disclose a known, direct, and
23 material interest in the outcome of the arbitration proceeding or a known, existing, and
24 substantial relationship with a party is presumed to act with evident partiality under section

1 23(a)(2) of this Act.

2 (f) If the parties to an arbitration proceeding agree to the procedures of an arbitration
3 organization or any other procedures for challenges to arbitrators before an award is made,
4 substantial compliance with those procedures is a condition precedent to a motion to vacate an
5 award on that ground under section 23(a)(2) of this Act.

6 Section 13. If there is more than one arbitrator, the powers of an arbitrator must be exercised
7 by a majority of the arbitrators, but all of them shall conduct the hearing under section 15(c) of
8 this Act.

9 Section 14. (a) An arbitrator or an arbitration organization acting in that capacity is immune
10 from civil liability to the same extent as a judge of a court of this state acting in a judicial
11 capacity.

12 (b) The immunity afforded by this section supplements any immunity under other law.

13 (c) The failure of an arbitrator to make a disclosure required by section 12 of this Act does
14 not cause any loss of immunity under this section.

15 (d) In a judicial, administrative, or similar proceeding, an arbitrator or representative of an
16 arbitration organization is not competent to testify, and may not be required to produce records
17 as to any statement, conduct, decision, or ruling occurring during the arbitration proceeding, to
18 the same extent as a judge of a court of this state acting in a judicial capacity. This subsection
19 does not apply:

20 (1) To the extent necessary to determine the claim of an arbitrator, arbitration
21 organization, or representative of the arbitration organization against a party to the
22 arbitration proceeding; or

23 (2) To a hearing on a motion to vacate an award under section 23(a)(1) or (2) of this Act
24 if the movant establishes prima facie that a ground for vacating the award exists.

1 (e) If a person commences a civil action against an arbitrator, arbitration organization, or
2 representative of an arbitration organization arising from the services of the arbitrator,
3 organization, or representative or if a person seeks to compel an arbitrator or a representative
4 of an arbitration organization to testify or produce records in violation of subsection (d), and the
5 court decides that the arbitrator, arbitration organization, or representative of an arbitration
6 organization is immune from civil liability or that the arbitrator or representative of the
7 organization is not competent to testify, the court shall award to the arbitrator, organization, or
8 representative reasonable attorney's fees and other reasonable expenses of litigation.

9 Section 15. (a) An arbitrator may conduct an arbitration in such manner as the arbitrator
10 considers appropriate for a fair and expeditious disposition of the proceeding. The authority
11 conferred upon the arbitrator includes the power to hold conferences with the parties to the
12 arbitration proceeding before the hearing and, among other matters, determine the admissibility,
13 relevance, materiality, and weight of any evidence.

14 (b) An arbitrator may decide a request for summary disposition of a claim or particular issue:

15 (1) If all interested parties agree; or

16 (2) Upon request of one party to the arbitration proceeding if that party gives notice to
17 all other parties to the proceeding, and the other parties have a reasonable opportunity
18 to respond.

19 (c) If an arbitrator orders a hearing, the arbitrator shall set a time and place and give notice
20 of the hearing not less than five days before the hearing begins. Unless a party to the arbitration
21 proceeding makes an objection to lack or insufficiency of notice not later than the beginning of
22 the hearing, the party's appearance at the hearing waives the objection. Upon request of a party
23 to the arbitration proceeding and for good cause shown, or upon the arbitrator's own initiative,
24 the arbitrator may adjourn the hearing from time to time as necessary but may not postpone the

1 hearing to a time later than that fixed by the agreement to arbitrate for making the award unless
2 the parties to the arbitration proceeding consent to a later date. The arbitrator may hear and
3 decide the controversy upon the evidence produced although a party who was duly notified of
4 the arbitration proceeding did not appear. The court, on request, may direct the arbitrator to
5 conduct the hearing promptly and render a timely decision.

6 (d) At a hearing under subsection (c), a party to the arbitration proceeding has a right to be
7 heard, to present evidence material to the controversy, and to cross-examine witnesses appearing
8 at the hearing.

9 (e) If an arbitrator ceases or is unable to act during the arbitration proceeding, a replacement
10 arbitrator must be appointed in accordance with section 11 of this Act to continue the
11 proceeding and to resolve the controversy.

12 Section 16. A party to an arbitration proceeding may be represented by a lawyer.

13 Section 17. (a) An arbitrator may issue a subpoena for the attendance of a witness and for
14 the production of records and other evidence at any hearing and may administer oaths. A
15 subpoena must be served in the manner for service of subpoenas in a civil action and, upon
16 motion to the court by a party to the arbitration proceeding or the arbitrator, enforced in the
17 manner for enforcement of subpoenas in a civil action.

18 (b) In order to make the proceedings fair, expeditious, and cost effective, upon request of
19 a party to or a witness in an arbitration proceeding, an arbitrator may permit a deposition of any
20 witness to be taken for use as evidence at the hearing, including a witness who cannot be
21 subpoenaed for or is unable to attend a hearing. The arbitrator shall determine the conditions
22 under which the deposition is taken.

23 (c) An arbitrator may permit such discovery as the arbitrator decides is appropriate in the
24 circumstances, taking into account the needs of the parties to the arbitration proceeding and

1 other affected persons and the desirability of making the proceeding fair, expeditious, and cost
2 effective.

3 (d) If an arbitrator permits discovery under subsection (c), the arbitrator may order a party
4 to the arbitration proceeding to comply with the arbitrator's discovery-related orders, issue
5 subpoenas for the attendance of a witness and for the production of records and other evidence
6 at a discovery proceeding, and take action against a noncomplying party to the extent a court
7 could if the controversy were the subject of a civil action in this state.

8 (e) An arbitrator may issue a protective order to prevent the disclosure of privileged
9 information, confidential information, trade secrets, and other information protected from
10 disclosure to the extent a court could if the controversy were the subject of a civil action in this
11 state.

12 (f) All laws compelling a person under subpoena to testify and all fees for attending a
13 judicial proceeding, a deposition, or a discovery proceeding as a witness apply to an arbitration
14 proceeding as if the controversy were the subject of a civil action in this state.

15 (g) The court may enforce a subpoena or discovery-related order for the attendance of a
16 witness within this state and for the production of records and other evidence issued by an
17 arbitrator in connection with an arbitration proceeding in another state upon conditions
18 determined by the court so as to make the arbitration proceeding fair, expeditious, and cost
19 effective. A subpoena or discovery-related order issued by an arbitrator in another state must
20 be served in the manner provided by law for service of subpoenas in a civil action in this state
21 and, upon motion to the court by a party to the arbitration proceeding or the arbitrator, enforced
22 in the manner provided by law for enforcement of subpoenas in a civil action in this state.

23 Section 18. If an arbitrator makes a preaward ruling in favor of a party to the arbitration
24 proceeding, the party may request the arbitrator to incorporate the ruling into an award under

1 section 19 of this Act. A prevailing party may make a motion to the court for an expedited order
2 to confirm the award under section 22 of this Act, in which case the court shall summarily
3 decide the motion. The court shall issue an order to confirm the award unless the court vacates,
4 modifies, or corrects the award under section 23 or 24 of this Act.

5 Section 19. (a) An arbitrator shall make a record of an award. The record must be signed or
6 otherwise authenticated by any arbitrator who concurs with the award. The arbitrator or the
7 arbitration organization shall give notice of the award, including a copy of the award, to each
8 party to the arbitration proceeding.

9 (b) An award must be made within the time specified by the agreement to arbitrate or, if not
10 specified therein, within the time ordered by the court. The court may extend or the parties to
11 the arbitration proceeding may agree in a record to extend the time. The court or the parties may
12 do so within or after the time specified or ordered. A party waives any objection that an award
13 was not timely made unless the party gives notice of the objection to the arbitrator before
14 receiving notice of the award.

15 Section 20. (a) On motion to an arbitrator by a party to an arbitration proceeding, the
16 arbitrator may modify or correct an award:

- 17 (1) Upon a ground stated in section 24(a)(1) or (3) of this Act;
18 (2) Because the arbitrator has not made a final and definite award upon a claim
19 submitted by the parties to the arbitration proceeding; or
20 (3) To clarify the award.

21 (b) A motion under subsection (a) must be made and notice given to all parties within twenty
22 days after the movant receives notice of the award.

23 (c) A party to the arbitration proceeding must give notice of any objection to the motion
24 within ten days after receipt of the notice.

(d) If a motion to the court is pending under section 22, 23, or 24 of this Act, the court may submit the claim to the arbitrator to consider whether to modify or correct the award:

(1) Upon a ground stated in section 24(a)(1) or (3) of this Act;

(2) Because the arbitrator has not made a final and definite award upon a claim submitted by the parties to the arbitration proceeding; or

(3) To clarify the award.

(e) An award modified or corrected pursuant to this section is subject to sections 19(a), 22, 23, and 24 of this Act.

Section 21. (a) An arbitrator may award punitive damages or other exemplary relief if such an award is authorized by law in a civil action involving the same claim and the evidence produced at the hearing justifies the award under the legal standards otherwise applicable to the claim.

(b) An arbitrator may award reasonable attorney's fees and other reasonable expenses of arbitration if such an award is authorized by law in a civil action involving the same claim or by the agreement of the parties to the arbitration proceeding.

(c) As to all remedies other than those authorized by subsections (a) and (b), an arbitrator may order such remedies as the arbitrator considers just and appropriate under the circumstances of the arbitration proceeding. The fact that such a remedy could not or would not be granted by the court is not a ground for refusing to confirm an award under section 22 of this Act or for vacating an award under section 23 of this Act.

(d) An arbitrator's expenses and fees, together with other expenses, must be paid as provided in the award.

(e) If an arbitrator awards punitive damages or other exemplary relief under subsection (a), the arbitrator shall specify in the award the basis in fact justifying and the basis in law

1 authorizing the award and state separately the amount of the punitive damages or other
2 exemplary relief.

3 Section 22. After a party to an arbitration proceeding receives notice of an award, the party
4 may make a motion to the court for an order confirming the award at which time the court shall
5 issue a confirming order unless the award is modified or corrected pursuant to section 20 or 24
6 of this Act or is vacated pursuant to section 23 of this Act.

7 Section 23. (a) Upon motion to the court by a party to an arbitration proceeding, the court
8 shall vacate an award made in the arbitration proceeding if:

9 (1) The award was procured by corruption, fraud, or other undue means;

10 (2) There was:

11 (A) Evident partiality by an arbitrator appointed as a neutral arbitrator;

12 (B) Corruption by an arbitrator; or

13 (C) Misconduct by an arbitrator prejudicing the rights of a party to the arbitration
14 proceeding;

15 (3) An arbitrator refused to postpone the hearing upon showing of sufficient cause for
16 postponement, refused to consider evidence material to the controversy, or otherwise
17 conducted the hearing contrary to section 15 of this Act, so as to prejudice
18 substantially the rights of a party to the arbitration proceeding;

19 (4) An arbitrator exceeded the arbitrator's powers;

20 (5) There was no agreement to arbitrate, unless the person participated in the arbitration
21 proceeding without raising the objection under section 15(c) of this Act not later than
22 the beginning of the arbitration hearing; or

23 (6) The arbitration was conducted without proper notice of the initiation of an arbitration
24 as required in section 9 of this Act so as to prejudice substantially the rights of a party

1 to the arbitration proceeding.

2 (b) A motion under this section must be filed within ninety days after the movant receives
3 notice of the award pursuant to section 19 of this Act or within ninety days after the movant
4 receives notice of a modified or corrected award pursuant to section 20 of this Act, unless the
5 movant alleges that the award was procured by corruption, fraud, or other undue means, in
6 which case the motion must be made within ninety days after the ground is known or by the
7 exercise of reasonable care would have been known by the movant.

8 (c) If the court vacates an award on a ground other than that set forth in subsection (a)(5),
9 it may order a rehearing. If the award is vacated on a ground stated in subsection (a)(1) or (2),
10 the rehearing must be before a new arbitrator. If the award is vacated on a ground stated in
11 subsection (a)(3), (4), or (6), the rehearing may be before the arbitrator who made the award or
12 the arbitrator's successor. The arbitrator must render the decision in the rehearing within the
13 same time as that provided in section 19(b) of this Act for an award.

14 (d) If the court denies a motion to vacate an award, it shall confirm the award unless a
15 motion to modify or correct the award is pending.

16 Section 24. (a) Upon motion made within ninety days after the movant receives notice of
17 the award pursuant to section 19 of this Act or within ninety days after the movant receives
18 notice of a modified or corrected award pursuant to section 20 of this Act, the court shall modify
19 or correct the award if:

- 20 (1) There was an evident mathematical miscalculation or an evident mistake in the
21 description of a person, thing, or property referred to in the award;
- 22 (2) The arbitrator has made an award on a claim not submitted to the arbitrator and the
23 award may be corrected without affecting the merits of the decision upon the claims
24 submitted; or

1 (3) The award is imperfect in a matter of form not affecting the merits of the decision on
2 the claims submitted.

3 (b) If a motion made under subsection (a) is granted, the court shall modify or correct and
4 confirm the award as modified or corrected. Otherwise, unless a motion to vacate is pending,
5 the court shall confirm the award.

6 (c) A motion to modify or correct an award pursuant to this section may be joined with a
7 motion to vacate the award.

8 Section 25. (a) Upon granting an order confirming, vacating without directing a rehearing,
9 modifying, or correcting an award, the court shall enter a judgment in conformity therewith. The
10 judgment may be recorded, docketed, and enforced as any other judgment in a civil action.

11 (b) A court may allow reasonable costs of the motion and subsequent judicial proceedings.

12 (c) On application of a prevailing party to a contested judicial proceeding under section 22,
13 23, or 24 of this Act, the court may add reasonable attorney's fees and other reasonable expenses
14 of litigation incurred in a judicial proceeding after the award is made to a judgment confirming,
15 vacating without directing a rehearing, modifying, or correcting an award.

16 Section 26. (a) A court of this state having jurisdiction over the controversy and the parties
17 may enforce an agreement to arbitrate.

18 (b) An agreement to arbitrate providing for arbitration in this state confers exclusive
19 jurisdiction on the court to enter judgment on an award under this Act.

20 Section 27. A motion pursuant to section 5 of this Act must be made in the court of the
21 county in which the agreement to arbitrate specifies the arbitration hearing is to be held or, if
22 the hearing has been held, in the court of the county in which it was held. Otherwise, the motion
23 may be made in the court of any county in which an adverse party resides or has a place of
24 business or, if no adverse party has a residence or place of business in this state, in the court of

any county in this state. All subsequent motions must be made in the court hearing the initial motion unless the court otherwise directs.

Section 28. (a) An appeal may be taken from:

- (1) An order denying a motion to compel arbitration;
- (2) An order granting a motion to stay arbitration;
- (3) An order confirming or denying confirmation of an award;
- (4) An order modifying or correcting an award;
- (5) An order vacating an award without directing a rehearing; or
- (6) A final judgment entered pursuant to this Act.

(b) An appeal under this section must be taken as from an order or a judgment in a civil action.

Section 29. In applying and construing this uniform act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

Section 30. The provisions of this Act governing the legal effect, validity, and enforceability of electronic records or electronic signatures, and of contracts performed with the use of such records or signatures conform to the requirements of section 102 of the Electronic Signatures in Global and National Commerce Act.

Section 31. That § 21-25A-3 be amended to read as follows:

21-25A-3. This chapter does not apply to insurance policies and every provision in any such policy requiring arbitration or restricting a party thereto or beneficiary thereof from enforcing any right under it by usual legal proceedings in ordinary tribunals or limiting the time to do so is void and unenforceable. However, nothing in this chapter may be deemed to impair the enforcement of or invalidate a contractual provision for arbitration entered into between

1 insurance companies or a policy issued to an exempt commercial policyholder as defined by
2 § 58-24-68.

3 Section 32. Sections 21-25A-1, 21-25A-2, and 21-25A-4 to 21-25A-38, inclusive, are
4 repealed on July 1, 2007.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

573M0628

HOUSE TAXATION COMMITTEE ENGROSSED NO.

HB 1232 - 02/07/2006

Introduced by: Representatives Roberts, Bradford, Dennert, Elliott, Gassman, Glenski, Glover, Haley, Halverson, Lange, Miles, Sigdestad, Street, Thompson, and Van Norman and Senators Koetzle, Bartling, Hanson (Gary), Hundstad, Nesselhuf, and Sutton (Dan)

1 FOR AN ACT ENTITLED, An Act to revise certain provisions concerning the freeze on
2 property assessments for disabled and senior citizens.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 10-6A-4 be amended to read as follows:

5 10-6A-4. ~~Applications~~ The application for the real property tax assessment freeze provided
6 under this chapter shall be ~~made annually~~ submitted on or before April first on forms prescribed
7 by the secretary of revenue and regulation. ~~Forms~~ The form shall be made available to the
8 county ~~treasurers~~ treasurer who shall, upon request of an applicant, assist the applicant in
9 completing the ~~forms~~ form. A person failing to comply with the April first deadline for the
10 previous year, but otherwise qualifying for the real property tax assessment freeze provided
11 under this chapter, may petition the board of county commissioners to recalculate the taxes
12 based on the valuation the person would have received under this program and abate the
13 difference in taxes.

14 Section 2. That § 10-18-2 be amended by adding thereto a NEW SUBDIVISION to read as



1 follows:

2 The board may abate or refund the taxes pursuant to section 1 of this Act.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

564M0564

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB 1233** - 02/07/2006

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsor.

Introduced by: Representatives Bradford, Elliott, Gassman, Glover, Haley, Kroger, Lange, Sigdestad, and Van Norman and Senator Bartling

1 FOR AN ACT ENTITLED, An Act to provide for the establishment and operation of artisan
2 distillers and to revise certain provisions concerning farm wineries.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "Artisan distiller," an artisan distiller located in South Dakota that produces fifty
6 thousand gallons or less of distilled spirits annually;

7 (2) "Department," the Department of Revenue and Regulation;

8 (3) "Farm Winery," any winery licensed pursuant to chapter 35-12;

9 (4) "Distilled spirits sample or liquor sample," any sample of distilled spirits given with
10 or without charge to a customer, visitor, or tourist, but does not include amounts
11 consumed or tested as a part of production, or given to employees, directors,
12 members, owners, consultants, or paid taste panels as a part of product development,
13 product production, or marketing research;

14 (5) "Produces," the distillation of distilled spirits on the premises of the artisan distiller



1 licensee.

2 Section 2. The secretary of the Department of Revenue and Regulation may issue an artisan
3 distiller license to the owner or operator of an artisan distiller located within the state. A license
4 may be issued and renewed for an annual fee of five hundred dollars, which is in lieu of all other
5 license fees required by chapter 35-4. The fee shall be deposited in the general fund.

6 Section 3. The department may, upon receipt of an application, issue an artisan distiller
7 license to a person who is authorized under the provisions of the Federal Alcohol
8 Administration Act, 27 U.S.C. §§ 201 to 212, inclusive, as of January 1, 2006. A licensee may
9 import, manufacture, distill, rectify, blend, process, denature, sell, transport, and store distilled
10 spirits of an alcoholic content greater than seventeen percent alcohol by weight and may
11 transport the distilled spirits out of this state for sale outside this state. A licensee may sell
12 alcoholic beverages as provided in section 6 of this Act.

13 Section 4. No agricultural producer, association of agricultural producers, or legal agent who
14 manufactures and converts agricultural surpluses, byproducts, or wastes into denatured ethyl and
15 industrial alcohol for purposes other than human consumption is required to obtain an artisan
16 distiller license.

17 Section 5. An artisan distiller that produces distilled spirits within the state pursuant to
18 section 2 of this Act shall maintain records of all sales and shipments. The artisan distiller shall
19 furnish the department a monthly and other reports concerning quantities and prices of distilled
20 spirits shipped and other information that the department determines to be necessary to ensure
21 that the distribution of distilled spirits within this state conforms to the requirements of this Act.

22 Section 6. An artisan distiller licensed pursuant to this Act may:

23 (1) Import necessary products in bulk;

24 (2) Bottle, produce, blend, store, transport, or export distilled spirits that the artisan

1 distiller produces;

2 (3) Perform any operation that is permitted for bonded artisan distiller premises under
3 applicable regulations of the United States Department of the Treasury;

4 (4) Provide, with or without charge, not more than four ounces of any distilled spirits
5 sample that the artisan distiller produces at that location for consumption on the
6 premises between twelve noon to twelve midnight;

7 (5) Provide without charge more than four ounces of any distilled spirits sample that the
8 artisan distiller produces at that location to employees, directors, members, owners,
9 shareholders, paid consultants, or paid taste panels as long as the sample is used for
10 the purposes of product research or product development;

11 (6) Sell distilled spirits, if produced, manufactured, blended, or processed at that artisan
12 distiller, at retail to any person for off-premises consumption. However, no artisan
13 distiller may sell more than three and one-half liters per day to any person. However,
14 an artisan distiller may sell more than three and one-half liters per day if the artisan
15 distiller holds a license an off-sale license pursuant to subdivision 35-4-2(3);

16 (7) Sell distilled spirits aging or to be aged at the premises or at a licensed warehouse
17 operated by the artisan distiller in advance of the bottling of that distilled spirits,
18 provided that delivery of that distilled spirits does not exceed three and one-half liters
19 per day per person. Any advanced sale delivered by a distributor licensed pursuant
20 to chapter 35-2 is not limited by this section;

21 (8) Sell and transport distilled spirits to a farm winery made from product from the
22 respective farm winery;

23 (9) Hold on the premises where the distilled spirits is produced, an on-sale license issued
24 pursuant to subdivision 35-4-2(4) or (6) or pursuant to the license issued pursuant to

1 section 2 of this Act;

2 (10) Hold on the premises where the distilled spirits is produced, an off-sale license issued
3 pursuant to subdivision 35-4-2(5) or (19) or pursuant to the license issued pursuant
4 to section 2 of this Act.

5 Section 7. Except as otherwise specified in this Act, all provisions of this title apply to the
6 production, sale, possession, and consumption of distilled spirits produced by an artisan distiller.

7 Section 8. Notwithstanding the provisions of § 35-2-6.4, any person employed by or with
8 an interest in a business that holds a license pursuant to subdivisions 35-4-2(2), (3), (4), (5), (6),
9 (12), (13), (16), (17), (18), and (19) may have an interest of ten percent or less in an artisan
10 distiller provided that the total percent of ownership of an artisan distiller by persons with such
11 interest does not exceed forty-nine percent.

12 Section 9. There is hereby levied on all distilled spirits manufactured or produced by a South
13 Dakota artisan distillery an excise tax imposed at the same rates and collected and administered
14 in the same manner as the tax imposed on distilled spirits in chapter 35-5.

15 Section 10. The excise tax on distilled spirits established in section 9 of this Act shall be
16 paid to the secretary of the Department of Revenue and Regulation on or before the fifteenth day
17 of the month following the month in which the first sale is made in this state by a licensed farm
18 winery and shall be deposited in the general fund. The artisan distillery licensee shall file with
19 the secretary a return in the form prescribed by the secretary, and shall keep records and render
20 reports required by the secretary in rules promulgated pursuant to chapter 1-26.

21 Section 11. A farm winery may sell for off sale consumption up to one liter per person per
22 day of distilled spirits made from product provided by that winery and purchased from an artisan
23 distiller pursuant to this Act.

24 Section 12. A farm winery licensed pursuant to chapter 35-12 may provide, with or without

1 charge, not more than two ounces of distilled spirits samples produced at an artisan distiller
2 pursuant to this Act to any person for consumption on the premises between twelve noon and
3 twelve midnight.

4 Section 13. An artisan distiller or farm winery which receives less than ten dollars a month
5 from the tax on the sale of distilled spirits samples is not required to file a return or pay the tax
6 under Title 35.

7 Section 14. Any artisan distiller or farm winery who owe taxes amounting to less than one
8 hundred dollars per month on an annual average may be permitted by the department to report
9 any pay the tax on a semiannual basis or other time period and in such manner as deemed
10 reasonable by the department.

11 Section 15. That § 35-2-6.3 be amended to read as follows:

12 35-2-6.3. Any distiller, manufacturer, wholesaler, or retailer licensee under this title ~~must,~~
13 except as provided in this Act, shall be the owner or actual lessee of the premises where the
14 business is to be conducted and the sole owner of the business to be operated under such license.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

400M0650

HOUSE EDUCATION COMMITTEE ENGROSSED NO. **HB 1234** - 02/07/2006

Introduced by: The Committee on Education at the request of the Governor

1 FOR AN ACT ENTITLED, An Act to require all children to attend kindergarten and to
2 establish a minimum length of time for kindergarten programs.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-27-1 be amended to read as follows:

5 13-27-1. Every person having control of a child, who is ~~six~~ not younger than five or older
6 than six years old by the first day of September and who has not exceeded the age of sixteen,
7 shall cause the child to regularly ~~and annually~~ attend some public or nonpublic school for the
8 entire term during which the public school in the district in which the person resides, or the
9 school to which the child is assigned to attend, is in session, until the child reaches the age of
10 sixteen years, unless excused as provided in this chapter.

11 ~~Any child under age six enrolled in any elementary school or kindergarten program is~~
12 ~~subject to the compulsory attendance statutes of this state. A waiver of the compulsory~~
13 ~~attendance requirement for children under the age of seven years of age shall be granted by the~~
14 ~~school district upon the request of the parents. All children shall attend kindergarten prior to age~~
15 seven. Any child who transfers from another state may proceed in a continuous educational



1 program without interruption if the child has not previously attended kindergarten.

2 Section 2. That § 13-26-1 be amended to read as follows:

3 13-26-1. The school fiscal year shall begin July first and end June thirtieth. Each local
4 school board shall set the number of days in a school term, the length of a school day, and the
5 number of school days in a school week. The local school board or governing body shall
6 establish the number of hours in the school term for kindergarten programs, which may not be
7 less than four hundred thirty-seven and one-half hours. The Board of Education shall
8 promulgate rules pursuant to chapter 1-26 setting the minimum number of hours in the school
9 term for grades one through three. The number of hours in the school term for grades four
10 through twelve may not be less than nine hundred sixty-two and one-half hours, exclusive of
11 intermissions. An intermission is the time when pupils are at recess or lunch.

12 Section 3. That § 13-28-2 be amended to read as follows:

13 13-28-2. Any child who is five years old on the first day of September is eligible for
14 enrollment in kindergarten during that school year. ~~Any child who is six years old by September~~
15 ~~first is eligible for enrollment in first grade during that school year.~~ Any child in a kindergarten
16 or prekindergarten program who was in compliance with the statutory eligibility dates in effect
17 at the time of his enrollment may proceed in a continuous educational program without
18 interruption. Any child who transfers from another state may proceed in a continuous
19 educational program without interruption.

20 Any child under the age of five is eligible for admittance to a nursery school.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

664M0513

SENATE ENGROSSED NO. **SB 78** - 01/30/2006

Introduced by: Senator Knudson and Representative Michels

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to the submission of
2 direct legislation to a vote of the people at a general election.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 2-1-2 be amended to read as follows:

5 2-1-2. The petition shall be filed in the ~~office of the secretary of state~~ Office of the Secretary
6 of State by the first Tuesday in ~~May~~ April of a general election year for submission to the
7 electors at the next general election.

8 Section 2. That § 2-1-6.2 be amended to read as follows:

9 2-1-6.2. The full text of any initiative petition, referred law petition, or initiated
10 constitutional amendment petition, the date of the general election at which the initiated law or
11 initiated constitutional amendment is to be submitted, and the names and addresses of the
12 petition sponsors shall be filed with the secretary of state prior to circulation for signatures. The
13 signer's post office box number may be given in lieu of a street address if the signer lives within
14 a municipality of the second or third class. The form of the petitions shall be prescribed by the
15 State Board of Elections. For any initiated constitutional amendment petition, no signatures may
16 be obtained more than twenty-four months preceding the general election that was designated



1 at the time of filing of the full text. For any initiative petition, no signatures may be obtained
2 more than ~~eighteen~~ nineteen months preceding the general election that was designated at the
3 time of filing of the full text. An initiative petition and an initiated constitutional amendment
4 petition shall be filed with the secretary of state by the date set forth in § 2-1-2 or 2-1-2.1, as
5 applicable. All sections of any petition filed under this chapter shall be filed with the secretary
6 of state simultaneously together with a sworn affidavit on forms promulgated by the State Board
7 of Elections, signed by two-thirds of the sponsors stating that the documents filed constitute the
8 entire petition and to the best of their knowledge contain a sufficient number of signatures.

9 Section 3. That § 12-13-9 be amended to read as follows:

10 12-13-9. Before the ~~fourth third~~ Tuesday in ~~July~~ May, the attorney general shall deliver to
11 the secretary of state ~~the~~ an attorney general's statement; for each proposed amendment to the
12 Constitution and each initiated measure. The attorney general's statement for each referred
13 measure shall be delivered to the secretary of state before the second Tuesday in July. The
14 attorney general's statement shall consist of the title, the explanation, and a clear and simple
15 recitation of the effect of a "Yes" or "No" vote. The explanation shall ~~state succinctly~~ be an
16 objective, clear and simple summary to educate the voters of the purpose and ~~legal~~ effect of the
17 proposed amendment to the Constitution, the initiated measure, or the referred law. The
18 ~~explanation shall be a clear and simple summary of the issue and~~ attorney general shall include
19 a description of the legal consequences of the proposed amendment, the initiated measure, or
20 the referred law, including the likely exposure of the state to liability if the proposed
21 amendment, the initiated measure, or the referred law is adopted. The explanation may not
22 exceed two hundred words in length. On the printed ballots, the title shall be followed by the
23 explanation and the explanation shall be followed by the recitation.

24 Section 4. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as

1 follows:

2 In the year 2006, the attorney general's statement for each proposed amendment to the
3 Constitution and each initiated measure shall be delivered to the secretary of state before the
4 second Tuesday in July.

5 Section 5. That § 12-13-23 be amended to read as follows:

6 12-13-23. The secretary of state shall ~~prepare and~~ distribute public information on any
7 constitutional amendment, initiated, or referred measure submitted to the electors for approval.
8 The secretary of state shall compile the public information by printing a statement in support
9 of the constitutional amendment, initiated, or referred measure written by its proponents, if any
10 can be identified, and a statement against the constitutional amendment, initiated, or referred
11 measure written by its opponents, if any can be identified. The secretary of state is not
12 responsible for the contents, objectivity, or accuracy of the statements written by the proponents
13 and opponents.

14 Section 6. That chapter 12-13 be amended by adding thereto a NEW SECTION to read as
15 follows:

16 The secretary of state shall, within five days of delivery from the attorney general, make the
17 attorney general's statement for each proposed amendment to the Constitution, each initiated
18 measure, and each referred law available to any person upon request.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

771M0088

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **SB 107** - 01/24/2006

Introduced by: Senators Olson (Ed), Dempster, Duniphan, Hansen (Tom), Knudson, and Sutton (Duane) and Representatives Sebert, Buckingham, Cutler, Hennies, Kroger, Michels, Putnam, and Vehle

1 FOR AN ACT ENTITLED, An Act to revise the definition of manufacturer as it relates to the
2 ownership of certain motor vehicle dealerships and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 32-6B-79 be amended to read as follows:

5 32-6B-79. In §§ 32-6B-79 to 32-6B-83, inclusive, the term, manufacturer, includes a
6 representative or a person or entity who is directly or indirectly controlled by, or is under
7 common control with, the manufacturer. For purposes of this section, a person or entity is
8 controlled by a manufacturer if the manufacturer has the authority directly or indirectly, by law
9 or by agreement of the parties, to direct or influence the management and policies of the person
10 or entity. However, the term, manufacturer, does not include any person or entity who
11 manufactures or assembles less than two hundred fifty motorcycles a year or who manufactures
12 or assembles trailers.

13 Section 2. Whereas, this Act is necessary for the support of the state government and its
14 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in



- 1 full force and effect from and after its passage and approval.

State of South Dakota

EIGHTY-FIRST SESSION
LEGISLATIVE ASSEMBLY, 2006

329M0213

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **SB 118** - 02/07/2006

Introduced by: Senators Gant, Broderick, Duniphan, Earley, Gray, McCracken, and McNenny and Representatives Buckingham, Elliott, McCoy, Nelson, O'Brien, Peters, Rausch, Schafer, and Weems

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the type of personal
2 identification required when voting.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 12-18-6.1 be amended to read as follows:

5 12-18-6.1. When a the voter is requesting a ballot, the voter shall present a valid form of
6 personal identification. The personal identification that may be presented shall be either:

7 (1) A South Dakota driver's license or nondriver identification card;

8 (2) A passport or an identification card, including a picture, issued by an agency of the
9 United States government;

10 (3) A tribal identification card, including a picture; or

11 (4) ~~At~~ A current student identification card, including a picture, issued by a high school
12 or an accredited institution of higher education, including a university, college, or
13 technical school, ~~located within the State of South Dakota.~~



State of South Dakota

EIGHTY-FIRST SESSION LEGISLATIVE ASSEMBLY, 2006

661M0199

SENATE ENGROSSED NO. **SB 185** - 01/31/2006

Introduced by: Senators Duenwald, Abdallah, Apa, Bartling, Duniphan, Earley, Gant, Gray, Greenfield, Hansen (Tom), Hanson (Gary), Kelly, Kloucek, Koskan, McNenny, Napoli, Olson (Ed), Schoenbeck, Smidt, Sutton (Dan), and Two Bulls and Representatives McCoy, Davis, Frost, Fryslic, Hackl, Hunt, Jerke, Kraus, Lange, Rausch, Rave, Schafer, Tornow, Van Etten, and Wick

1 FOR AN ACT ENTITLED, An Act to require inspections of certain facilities by the Department
2 of Health.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-23A-1 be amended by adding thereto NEW SUBDIVISIONS to read
5 as follows:

6 "Abortion facility," a place where abortions are performed;

7 "Department," the South Dakota Department of Health;

8 Section 2. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 Except as provided by section 3 of this Act, no person may establish or operate an abortion
11 facility in this state without an appropriate license issued under this Act. Each abortion facility
12 shall have a separate license. No abortion facility license is transferrable or assignable.

13 Section 3. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
14 as follows:



1 The following facilities need not be licensed under this Act:

2 (1) A health care facility licensed pursuant to chapter 34-12; or

3 (2) The office of a physician licensed pursuant to chapter 36-4 unless the office is used
4 for performing abortions.

5 Section 4. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
6 as follows:

7 An applicant for an abortion facility license shall submit an application to the department
8 on a form prescribed by the department. The application shall be accompanied by a
9 nonrefundable license fee in an amount set by the department by rules promulgated pursuant to
10 chapter 1-26. The license fee may not exceed two thousand dollars. The application shall
11 contain evidence that there are one or more physicians on the staff of the facility who are
12 licensed by the State Board of Medical and Osteopathic Examiners. The department shall issue
13 a license if, after inspection and investigation, it finds that the applicant and the abortion facility
14 meet the requirements of this Act and the standards promulgated in rules adopted pursuant to
15 this Act. As a condition for renewal of a license, the licensee shall submit to the department the
16 annual license renewal fee set by rules promulgated pursuant to chapter 1-26.

17 Section 5. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
18 as follows:

19 The department may inspect an abortion facility at reasonable times as necessary to ensure
20 compliance with this Act. The department shall inspect an abortion facility before renewing the
21 facility's license.

22 Section 6. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
23 as follows:

24 Any fees collected under this Act shall be deposited in the abortion facility licensing fund

1 and are continuously appropriated to administer and enforce this Act.

2 Section 7. That chapter 34-23A be amended by adding thereto a NEW SECTION to read
3 as follows:

4 The department shall adopt rules pursuant to chapter 1-26 for the issuance, renewal, denial,
5 suspension, and revocation of a license to operate an abortion facility. The department shall
6 adopt, by rules promulgated pursuant to chapter 1-26, minimum standards to protect the health
7 and safety of a patient of an abortion facility. The rules shall establish minimum standards
8 regarding:

- 9 (1) Facility safety and sanitation;
- 10 (2) Qualifications and supervision of professional and nonprofessional personnel;
- 11 (3) Emergency equipment and procedures to provide emergency care;
- 12 (4) Medical records and reports;
- 13 (5) Procedure and recovery rooms;
- 14 (6) Infection control;
- 15 (7) Medication control;
- 16 (8) Quality assurance;
- 17 (9) Facility and laboratory equipment requirements, sanitation, testing, and maintenance;
- 18 (10) Information on and access to patient follow-up care; and
- 19 (11) Patient screening, assessment, and monitoring.